

BOARD OF HEALTH - TOWN OF NANTUCKET

THURSDAY, FEBRUARY 26, 2015

4:00 PM

**COMMUNITY ROOM – PUBLIC SAFETY FACILITY
FIRST FLOOR**

4 FAIRGROUNDS ROAD

(Agenda subject to change)

- I. Call to order:**
- II. Approval of the agenda:**
- III. Approval of minutes:**
 - **December 18, 2014**
- IV. Discussion of potential changes to local Regulation:–**
 - **69.00 CONNECTIONS TO NEW AND EXISTING
PUBLICLY OWNED SANITARY SEWER LINES - potential
hearing date**
- V. Concerns from the Board:**
- VI. Public comments:**
- VII. Adjournment:**



BOARD OF HEALTH

Town of Nantucket
2 Fairgrounds Road
Nantucket, Massachusetts 02554
www.nantucket-ma.gov

Commissioners: Malcolm MacNab, MD, PHD, (chair), James Cooper (Vice chair), Helene Weld, RN, Stephen Visco, Rick Atherton

Staff: Richard Ray, Artell Crowley

~~ MINUTES ~~

Thursday, December 18, 2014

4 Fairgrounds Road, Community Room – 4:00 pm

Called to order at 4:00 p.m.

Staff in attendance: Richard Ray, Health Director; Artell Crowley, Deputy Director Health; Terry Norton, Town Minutes Taker

Attending Members: Malcolm MacNab, MD, PHD; James Cooper; Helene Weld, RN; Stephen Visco; Rick Atherton, Board of Selectmen

Absent Members: None

Agenda adopted by unanimous consent

I. PUBLIC COMMENTS – ANY MEMBER OF THE PUBLIC MAY ADDRESS COMMISSIONERS AT THIS TIME

1. None

II. APPROVAL OF MINUTES

1. October 9, 2014 adopted by unanimous consent

III. PUBLIC HEARING DATES

1. Local Regulation 55 – Inspection and upgrading of substandard sewage disposal systems within the Hummock Pond Watershed Protection District/extension of dates for inspections.

Sitting MacNab, Cooper, Weld, Visco, Atherton

Recused None

Documentation Supporting documents and plans, staff recommendations.

Discussion **Ray** – The current deadline date for inspections within Zone A is 3/1/2014 looking for extension to 12/31/2015. The Zone B current deadline is 6/1/2015, wants 5/1/2016. The discussion about sewer to that area should come to fruition before we start fining.

MacNab – Have done this before and have problems with environmental protection.

Crowley – In the past, if they can prove they are on the list prior to the date, they are in compliance.

Ray – Explained the process of an inspection. A mass mailing does go out return receipt requested. Zone A has

MacNab & Weld – Have a problem with the May 2016 date.

Cooper – With 370 inspections to do at 2 a day it would be accomplished in 180 days. He questions if these can be done in 180 days.

Ray – That is why he needs the inspection, they don't have the people to do them that fast.

Atherton – Suggested extending 6/30/2015 for both zones and need to be on the list.

Ray – If they aren't on the list by that date,

Action **Motion to Extend to both Zone A & B until June 30, 2015.** (made by: Atherton) (seconded by: Cooper)

Vote Carried unanimously

2. DRAFT Regulation 73 – Prohibition of Smoking on Town-Owned Beaches and Adjacent Parking Areas.

Sitting	MacNab, Cooper, Weld, Visco, Atherton
Recused	None
Documentation	Supporting documents and plans, staff recommendations.
Discussion	Discussion of date.
Action	Staff to schedule a hearing for February 2015.

IV. RE-SIGNING OF SIGNATURE PAGE FOR LOCAL REGULATION 77.00

Sitting	MacNab, Cooper, Weld, Visco, Atherton
Recused	None
Documentation	Supporting documents and plans, staff recommendations.
Discussion	All that is needed is for the board members to resign the signature page.

V. BOARD APPROVAL TO RELEASE PETER PSARADELIS FROM SEPTIC LOAN OBLIGATION

Sitting	MacNab, Cooper, Weld, Visco, Atherton
Recused	None
Documentation	Supporting documents and plans, staff recommendations.
Discussion	Ray – The loan is paid in full. Town Counsel is working on the release form. He needs the board's approval to release Mr. Psaradelis from the lien. Atherton – Suggest delegating these to staff.
Action	Motion to Authorize Staff to release these loans. (made by: Atherton) (seconded by: Cooper)
Vote	Carried unanimously

VI. APPROVAL OF INCREASE IN SPETIC REPAIR LOAN FOR 24 GOLF VIEW DRIVE

Sitting	MacNab, Cooper, Weld, Visco, Atherton
Recused	None
Documentation	Supporting documents and plans, staff recommendations.
Discussion	Ray – Already approved by the board at \$25,241.00; the cost has gone up to \$33,000. Need board signature.
Action	Motion to Approve. (made by: Atherton) (seconded by: Cooper)
Vote	Carried unanimously

VII. ADMINISTRATIVE CONSENT ORDER FOR 1 H STREET, ELMA GUTTENBERG

Sitting	MacNab, Cooper, Weld, Visco, Atherton
Recused	None
Documentation	Supporting documents and plans, staff recommendations.
Discussion	Ray – The Administrative Consent Order is for \$30,000.
Action	Motion to Approve. (made by: Weld) (seconded by: Cooper)
Vote	Carried unanimously

VIII. DISCUSSION ITEMS

1. Report – Tick-borne disease and Hepatitis C cases

Sitting MacNab, Cooper, Weld, Visco, Atherton

Recused None

Documentation Supporting documents and plans, staff recommendations.

Discussion **Ray** - The numbers are in the packet.

MacNab – Asked to hear from Charlene Chadwick, Infection Control Nurse Nantucket Cottage Hospital. For Hepatitis, there are only 11 cases out of a population of 15,000. Wants to look at the state numbers as comparison to how Nantucket stands up. Tick-borne disease: Lyme went down but Babesiosis went up. Most cases, about 96%, are of people who live on the island. Explained possible reasons for the low number of cases in tick-borne disease; cause and affect are hard to ascertain.

Ray – This year, the bow hunters were allowed to log in their kills on the internet; a lot of hunters didn't do that as the site wasn't being monitored. As a result there won't be a true number of the take.

Cooper – Asked whose responsibility it is to check deer taken by hunters.

Ray – Said they can hope is that next year the state sends someone to check the hunters.

2. Proposed new local regulation or Bylaw; local regulation 8.00 – Keeping of Animals

Sitting MacNab, Cooper, Weld, Visco, Atherton

Recused None

Documentation Supporting documents and plans, staff recommendations.

Discussion **Ray** – Right now the Town has a by-law that is very old and doesn't address current issues with the keeping of farm animals. Nantucket is moving toward being a more heavily populated area; housing is encroaching on farm animals. This started as a rooster problem. He has had a modicum of success in asking people to remove their roosters. He has researched regulations and also took four Town regulations and by-laws and condensed them into this one regulation. It doesn't preclude raising farm animals, just addresses their becoming a nuisance. Explained how a rooster can become a health issue.

Discussion about events involving problems with farm animals.

Ray – This is in the hands of Town Counsel to determine if it should be a BOH regulation or a Town bylaw.

Atherton – Suggested sending a copy to the Agriculture Commission.

3. Status of mandated sewer connections and review of and interpretation of Regulation 69.00, connections to New and Existing Publicly-Owned Sanitary Sewer Lines

Sitting MacNab, Cooper, Weld, Visco, Atherton

Recused None

Documentation Supporting documents and plans, staff recommendations.

Discussion **Ray** – Provided the background for this regulation and reviewed what the regulation states and the current problem with new dwellings that have not connected to existing sewer lines. Letters were sent to those land owners mandating connection to the sewer. Recently the department resent the letters but did not include a return receipt request; individuals came in claiming they never got the letters. What he would like to see is for this Board to take no action and allow a small committee, made up of Mr. Ray and a couple of members, to review these regulations and ascertain if they are applicable or need to be updated.

Cooper – Said he would like to be on the committee.

MacNab – Agrees the regulations need to be reviewed. There is an issue with upset citizens who received letters.

Ray – Said he told those citizens to keep the letter, that the BOH was meeting on the subject.

Discussion about the 9-month hook-up deadline cited in the letter that went out and how much time recipients have to hook up to sewer.

Atherton – Think there is a good reason to review the regulations and get people on sewer.

Leslie Snell, Assistant Director PLUS – There are 100 plus year-round residents who received the letter; have received comments from people many don't have the money/resources to make this improvement. Expressed the opinion that procedures weren't followed. Feels a resolution needs to be made today: whether or not to rescind the letter or set a date.

MacNab – Suggested the Health Department issue a letter which apologizes for the confusion and states that from the date of receipt of the letter property owners have 6 months for environmentally sensitive areas and 2 years for all others to hook up to sewer. He will review the letter before it goes out.

Action **Motion to follow the regulation and re-issue the letter of notification apologizing for the confusion.** (made by: Cooper) (seconded by: Weld)

Vote Carried unanimously

Discussion about the regulations.

Tobias Glidden, BOS – Would like to see the new regulations provide for those people on septic who cannot afford the hook up to sewer.

Further discussion about the contents of the new regulations.

MacNab – Would like to schedule the January meeting for the fourth Thursday so that he can attend.

IX. RATIFICATION OF EMERGENCY CONDEMNATION FOR BASEMENT PORTION OF 3 RUSTY'S WAY ON DECEMBER 10, 2014

Sitting MacNab, Cooper, Weld, Visco, Atherton

Recused None

Documentation Supporting documents and plans, staff recommendations.

Discussion **Ray** – Explained the situation leading to a death from construction without benefit of a permit. That portion of the building has been condemned. Has conducted two surprise inspections and it is not habituated.

Action **Motion to Ratify the condemnation order.** (made by: Cooper) (seconded by: Weld)

Vote Carried unanimously

X. CONCERNS FROM THE BOARD

1. Weld – Mosquito control passed legislation. The State Regulatory Board will certify.
2. Ray – In January 2015 he will meet with a representative from Massachusetts Department of Health; they offered assistance in establishing a program where wild-caught deer meat can be distributed to not-for profit entities. Nantucket has a situation similar to farm raised deer as there is no interaction with other deer populations.
3. Ray – As of this morning, he submitted his retirement request effective May 31, 2015.
4. Atherton – On fertilizer regulations, he would like consideration for an amendment requiring an annual certification after the close of the period in which application of fertilizer is authorized. The Certification will state that the license holder has fully complied with the regulations. Such an affirmative statement will be helpful if any infractions are discovered.

XII. ADJOURNMENT

Motion to Adjourn: 5:08 p.m.

Submitted by:

Terry L. Norton

TOWN OF NANTUCKET BOARD OF HEALTH REGULATIONS

CONNECTIONS TO NEW AND EXISTING PUBLICLY OWNED SANITARY SEWER LINES

LOCAL REGULATIONS 69.00

Purpose:

The intent of these regulations is to further protect all existing and potential ground water, surface waters, harbors and estuaries on Nantucket Island from contamination from septic system failure.

Authority:

These Regulations are promulgated by the Board of Health of the Town of Nantucket pursuant to its authority under Chapter 111, Section 31 of the Massachusetts General laws.

69.01 Definition

- A. **Owner:** Any person named within a deed on file with the Nantucket Registry of Deeds as the legal and rightful owner of a residential or commercial property subject to these Regulations.
- B. **Person:** Any individual, association, group, business, proprietor, partnership, corporation, firm, trust, or unit of government.
- C. **Residential or commercial property:** any combination of land or buildings used for human habitation or the operation of a business engaged in the manufacture or sales of goods and or services.
- D. **Septic System:** Any subsurface sewage disposal system that includes both a holding tank and a leach facility or a cesspool.

69.02 Connections to Town sanitary sewer system required

- A. Owners of residential or commercial properties located on the Island of Nantucket shall connect the structures located on their property by a connection in accordance with existing building and public works requirements to any sanitary sewer line installed or approved by the town of Nantucket Department of Public Works under any street that abuts the subject property.**

69.03 Required connection time frame

- A. Connections to sanitary sewers shall be completed within two years of notice of the availability of the line for connection.**
- B. In environmentally sensitive areas as defined by the Nantucket Board of Health where new sewer lines are available for connection pursuant to 69.02, the property owners shall complete the required connection(s) within six (6) months of notice from the Nantucket Department of Public Works, weather permitting, but in no case in more than one (1) year of said notice.**
- C. The Board of Health may extend the time periods for required connections set forth in section 69.03A or 69.03B in the event of an incapacity of the Surfside Waste Water Treatment Facility to handle additional flowage.**

69.04 Permitting and notification

- A. The Nantucket Department of Public Works shall notify the Nantucket Health Department upon the completion of each Connection.**

69.05 Variance

- A. The Nantucket Board of Health may vary the application of any provision of these regulations, unless otherwise prohibited by state law or regulation, in any case, when, in the opinion of the Board of Health, lot size restrictions or hydrogeological conditions make enforcement of the provisions impractical or the owner has demonstrated a degree of environmental protection equivalent to that required under these regulations. The Board of Health also may vary the application of any provision of these regulations in any case when, in the opinion of the Board of Health, enforcement will do manifest injustice to the property or its Owner.**

- B. No variance shall be granted for environmentally sensitive areas or areas defined by the Nantucket Board of Health as ground water or harbor and water bodies protection districts.**
- C. Variances shall be considered for on site disposal systems installed five (5) years or less before a sanitary sewer is installed or completed. *Example: if an on site disposal system installed two (2) years before a sewer line is installed or completed, a three (3) years variance may be granted.***
- D. Every request for a variance shall be in writing to the Nantucket Board of Health and be subject to a hearing before the Board of Health.**
 - D-1. The owner of the subject property shall, at their expense, notify all abutters by certified mail at least ten days prior to the public hearing, and is responsible for payment of advertisement.**
- E. Any variance granted by the Board of Health shall be in writing.**
- F. Any denial of variance by the Board of health shall also be in writing and shall contain a statement of reasons for the denial.**

69.06 Right of Entry.

- A. The Nantucket Board of Health or its agent may enter upon privately owned property with reasonable notice and at reasonable hours for the purpose of ensuring compliance with these Regulations.**

69.07 Enforcement.

- A. Any person violating any portion of these Regulations shall be punished be a fine of not more than One hundred dollars (\$100). Each day, or portion thereof, shall be constituted as a separate Offence.**
 - A-1. If a violator holds any license and or permit issued by the Nantucket Board of Health, said license and or permit may be suspended for up to twenty four hours for each violation. If more than one provision of these regulations is violated, each violation shall constitute a separate offense. Each day shall constitute a separate violation.**

69.08 Severability.

- A. In the event that any provision of these regulations is declared invalid or unenforceable for any reason, all other provisions will be unaffected and shall remain in full force and effect.**

**Adopted:
May 7, 2003**

Chairman – Finn Murphy

Frank Spriggs

Timothy Soverino

Matthew Fee

Bruce Watts